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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

JUL 25 1994

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Amendment of the Commission's	)	GEN Docket No. 90-314
Rules to Establish New	)	RM-7140, RM-7175,
Personal Communications	)	RM-7168
Services	)	

To: The Commission

**PETITION FOR RECONSIDERATION**

Puerto Rico Telephone Company ("PRTC"), by its attorneys and pursuant to Section 1.106(b)(1) of the Commission's Rules, 47 C.F.R. § 1.106(b)(1), files this Petition for Reconsideration of the Commission's Memorandum Opinion and Order<sup>1</sup> released in the above-captioned proceeding on June 13, 1994.

**I. INTRODUCTION AND SUMMARY**

In the MO&O the Commission granted a petition for reconsideration filed by Pegasus Communications, Inc. ("Pegasus") to divide the previously-established Puerto Rico basic trading area ("BTA") into two BTAs for the provision of personal communications services ("PCS").<sup>2</sup> In response, the Commission established one BTA for Mayaguez/Aguadilla-Ponce and one for San Juan.<sup>3</sup> The Commission undertook this

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<sup>1</sup> Amendment of the Commission's Rules to Establish New Personal Communications Services, Memorandum Opinion and Order, FCC 94-144 (rel. June 13, 1994) ("MO&O").

<sup>2</sup> Id. at ¶ 79.

<sup>3</sup> Id.

reconfiguration based upon Pegasus' representation that the Mayaguez, Ponce, and Aguadilla areas are commercially separated from the San Juan, Puerto Rico trading center.

Notwithstanding Pegasus' contention, however, the public interest would not be served by dividing Puerto Rico into two separate PCS service areas. Pegasus' assertion that the areas of Mayaguez, Ponce and Aguadilla form a single trading center that is "fundamentally separate" from San Juan (Pegasus at 2) is simply incorrect because it is based on a picture of Puerto Rico that is outdated.

The BTA service area originally established by the Commission is appropriately tailored to the natural flow of commerce in today's Puerto Rico and to the current needs of Puerto Rico consumers. Moreover, licensing PCS in one Puerto Rico service area will facilitate the provision of lower cost service to Puerto Rico consumers in all parts of the island. For these reasons, PRTC urges the Commission to reinstate the previously adopted unitary Puerto Rico BTA.

## **II. THE ORIGINAL BTA IS APPROPRIATELY TAILORED TO THE NATURAL FLOW OF PUERTO RICO COMMERCE**

The Commission noted in the Second Report and Order in the above-captioned proceeding that Rand McNally designed major trading areas ("MTAs") and BTAs "based on the natural flow of commerce."<sup>4</sup> According to Rand McNally, "[t]he

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<sup>4</sup>. Amendment of the Commission's Rules to Establish New Personal Communications Services, Second Report and Order, 8 FCC Rcd 7700, 7732 (1993) ("Second Report and Order").

boundaries have been determined after an intensive study of such factors as physiography, population distribution, newspaper circulation, economic activities, highway facilities, railroad service, suburban transportation, and field reports of experienced sales analysts."<sup>5</sup> In light of these factors, the unitary BTA adopted by the Commission in the Second Report and Order is appropriately tailored to the natural flow of commerce on the island of Puerto Rico.

Puerto Rico is in reality a single market. The island is, roughly speaking, a rectangle only one hundred miles long by thirty five miles wide. Its land mass of 3500 square miles would place it among the smaller BTAs in the country. It features a mountain range running east to west across the island with peaks ranging from 1500 to 3500 feet, although a few individual peaks may rise somewhat higher. San Juan, on the north coast, is the island's capital and the largest city, with a population of approximately 750,000. The remaining population of 2.8 million inhabitants is equally distributed throughout all regions of the island.

Contrary to the Commission's findings based on the Pegasus petition, there are no "difficulties created by the mountain range," nor does it "separate [the island into] two areas." See MO&O at ¶ 79. Pegasus' petition, and the

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<sup>5</sup> Rand McNally, 1993 Commercial Atlas & Marketing Guide 39 (124th Ed.).

Commission's conclusion, is based on an outdated picture of Puerto Rico. At one time, the mountains did make travel difficult, isolating the southern and western regions from the northern and eastern parts of the island. The situation changed drastically, however, starting with a major push for the development of infrastructure after World War II, and continuing in the 1960's with the construction of an excellent highway system linking San Juan with the rest of the island.

Currently, modern expressways traverse the mountains, making San Juan the center of commerce for the entire island. Nearly all air and passenger ship service to Puerto Rico terminates at San Juan's international airport and modern port facility. Travelers from all parts of the island use Puerto Rico's efficient highway system to get to and from the air and sea ports in San Juan. In fact, intra-island air service is extremely limited -- most of the commuter airlines that once served San Juan, Ponce and Mayaguez disappeared in the 1970's due to the availability of convenient and affordable surface transportation between San Juan and the rest of the island.

The vast majority of transport shipping to Puerto Rico also arrives via the port of San Juan. Goods unloaded there are delivered to the other areas of the island by truck and car. In contrast, the port of Ponce has consistently lost money as it cannot attract shipping traffic away from the

port of San Juan. Likewise, the bulk of the shipping handled through the port of Mayaguez is generally limited to the tuna-canning industry that is located there.

In addition, all major Puerto Rico banks are headquartered in San Juan with branches in the other parts of the island. All major Puerto Rico universities are based in San Juan, with one exception, drawing students from across the island. The Government of Puerto Rico sits in San Juan with all of its major departments and agencies.

The media in Puerto Rico are also based in San Juan. El Nuevo Día and El Vocero are the principal Spanish-language newspapers for all of Puerto Rico, and The San Juan Star is the principal English-language newspaper. All three are published daily in San Juan and distributed island-wide.

The three major local television stations, Telemundo (Channel 2), WAPA-TV (Channel 4) and TeleOnce (Channel 11), are based in San Juan and distribute their signals throughout the island by means of affiliates or repeaters. Over 95% of the programming is originated in San Juan. Thus, viewers in Ponce, Mayaguez, Aguadilla, Humacao or any other city or town are able to watch the same programming at the same time. Programming for the major radio networks also originates in San Juan, including all of the major news networks.

As indicated above, the highways connecting areas of Puerto Rico to San Juan are excellent and greatly facilitate

the movement of people and goods to the San Juan trading center. There is a four lane expressway (the Luis A. Ferre Expressway), similar to a federally-funded interstate highway, between Ponce and San Juan that links the metropolitan San Juan area to the southern parts of the island. This has led to the existence of commuters who live in Ponce and work in San Juan. There is also a similar expressway (the Jose de Diego Expressway) connecting San Juan to the north central sectors of Puerto Rico. Another expressway (PR-10) is currently under construction that will link Arecibo on the north central coast with Ponce on the south central coast. Excellent four lane highways connect San Juan with Fajardo and Humacao on the east coast, and Aguadilla with Mayaguez on the west coast. There are also thousands of miles of additional first class roads that connect the principal cities of the island.

With this infrastructure, trucking and passenger vehicle travel have flourished across the island. Indeed, a major intra-island commuter airline, Prinair, failed in the 1970's as Puerto Ricans began driving to and from San Juan with the completion of the fast and efficient highway system. A similar fate befell the Puerto Rico Motorcoach, a Greyhound-type bus line, as non-car owners turned to convenient "jitney" cabs -- locally known as "publicos" -- for intra-island commuting.

As the highways have become more convenient, new hotels, resorts and inns ("paradores") have been constructed throughout the island. Within easy driving access from anywhere on the island, these facilities regularly draw thousands of families on weekends and holidays. Thus, families from San Juan will drive to the boating center in Fajardo, or to the caves of Camuy, or to the surfing beaches of Aguadilla, or the coffee-growing plantations of the central mountains, or the scuba diving reefs off Cabo Rojo on the southwestern tip of the island. Families from Ponce will drive one hour to San Juan for shopping at the island's largest shopping mall, Plaza las Americas, or simply to stroll in Old San Juan.

Even ~~Pegasus~~ tacitly acknowledges that the highway system has enabled Puerto Ricans to travel island-wide. Pegasus indicates that the expressway linking Mayaguez with San Juan is "heavily congested" — suggesting that there is a great deal of movement between the two areas.<sup>6</sup> Moreover, Pegasus' Community Profile of Mayaguez notes that "[a]n extensive highway system provides easy, efficient access from any location on the Island to the Mayaguez area's industrial sites."<sup>7</sup> Similarly, "[a] major highway system places [Ponce] within 90 minutes of the San Juan

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<sup>6</sup>. Pegasus at 4-5.

<sup>7</sup>. Id., Appendix II, at 2.

Metropolitan Area . . . ."<sup>8</sup> Plainly, the Puerto Rico highway system allows free travel between San Juan and the rest of the island — including Ponce, Mayaguez, and Aguadilla.

All of this shows that the supposed "difficulties" created by the mountain range which split the island into two self-contained areas simply do not exist. Moreover, even if it were logical to split the island into a number of different service areas due to the mountains, the two areas that Pegasus proposed do not follow that logic. First, the mountain range also separates Aguadilla from Mayaguez. Thus, if the mountains created a problem (which they do not), then Aguadilla and Mayaguez should not be in the same service area.

Also, measured in terms of travel time, Ponce is as close to San Juan as it is to Mayaguez, and the highway between Ponce and San Juan is better. Far more people who live in Ponce travel to San Juan than to Mayaguez, from commuters who live in Ponce and work in San Juan, to shoppers, to those seeking entertainment. Therefore, it is unreasonable to split Ponce from San Juan to place it in a Mayaguez service area.

The unitary BTA originally established by the Commission is appropriately tailored to the natural flow of

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<sup>8</sup> Id., Exhibit III, at 2.



commerce on the island of Puerto Rico. It recognizes the ease of commuting across the island and the primacy of San Juan in the commercial and social structure of Puerto Rico. The Commission should reinstate the originally adopted unitary BTA.

**III. ONE BTA WILL FACILITATE THE PROVISION OF LOWER COST SERVICE TO ALL OF PUERTO RICO**

The Commission recognized in the Notice of Proposed Rule Making<sup>9</sup> in this proceeding — and again in the Second Report and Order — that larger PCS service areas will foster greater economies of scale and scope.<sup>10</sup> Indeed, the Commission noted the trend in the cellular telephone arena toward costly service area consolidations ~~in~~ pursuit of operational efficiencies.<sup>11</sup> For example, PRTC operates a single, island-wide cellular system providing service throughout Puerto Rico. In 1991 the Commission approved PRTC's request to consolidate the Puerto Rico cellular geographic service areas ("CGSAs") into a single, island-wide cellular system.<sup>12</sup> As a result of this type of

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<sup>9</sup>. Amendment of the Commission's Rules to Establish New Personal Communications Services, Notice of Proposed Rule Making and Tentative Decision, 7 FCC Rcd 5676 (1992) ("NPRM").

<sup>10</sup>. See id. at 5699-70; Second Report and Order, 8 FCC Rcd at 7732-33.

<sup>11</sup>. Second Report and Order, 8 FCC Rcd at 7732.

<sup>12</sup>. See FCC Report No. CL-91-71 (Jan. 16, 1991) (granting PRTC application, File No. 07287-CL-MP-91).

consolidation, the Commission determined that efficiency could be maximized in the PCS arena by licensing PCS in large MTA/BTA service areas instead of in the smaller cellular telephone service areas.<sup>13</sup>

For this reason, PCS should be licensed in Puerto Rico in one, larger BTA rather than in two small areas. A larger BTA will enable the Puerto Rico PCS licensees to deploy a PCS network more efficiently<sup>14</sup> and to serve a greater number of end users with the same infrastructure, equipment, and personnel. In turn, the resulting engineering and cost efficiencies will yield lower prices for Puerto Rico consumers — particularly for those in rural areas.

For example, consumers in the newly separated Mayaguez/Aguadilla-Ponce BTA would enjoy lower prices in a unitary BTA. The costs to consumers of constructing and operating a PCS network will be lower if they are shared by end users across the island than if consumers in the new, smaller BTA must support an independent system serving the more thinly populated sectors of the island. Plainly, the expenses of constructing and operating a PCS network can be

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<sup>13</sup>. Id.

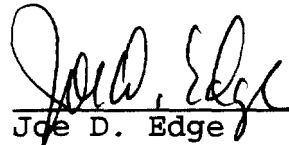
<sup>14</sup>. In the Second Report and Order the Commission noted that larger PCS service areas could make possible greater regional roaming, permit licensees to tailor their systems to the topographic dimensions of their service areas, and reduce the costs and burdens of interference coordination (e.g., microwave relocation) and technical standardization. Second Report and Order, 8 FCC Rcd at 7732.

borne more easily by a larger number of consumers. In concert with the engineering efficiencies made possible by a unitary system, therefore, licensing PCS in one Puerto Rico BTA will facilitate the provision of lower cost service to all of Puerto Rico.

**IV. CONCLUSION**

For these reasons, PRTC urges the Commission to reconsider its decision to create two PCS BTAs in Puerto Rico and to reinstate the previously adopted unitary Puerto Rico BTA.

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July 25, 1994

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**CERTIFICATE OF SERVICE**

I, Ann M. Wilson, hereby certify that on July 25, 1994, a copy of the foregoing was served by first class U.S. mail, postage prepaid, to:

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